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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,405	04/27/2006	Dirk Hartwich	026032-4965	9309
22428 7590 03/25/2008 FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007				
EXAMINER				
WHITE, RODNEY BARNETT				
ART UNIT		PAPER NUMBER		
3636				
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03/25/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/552,405

Applicant(s)

HARTWICH, DIRK

Examiner

Rodney B. White

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3636

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16-23 is/are allowed.
- 6) ☒ Claim(s) 24, 25 and 27-38 is/are rejected.
- 7) ☒ Claim(s) 26 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

Applicant's arguments, see the Amendment/Remarks filed 12/05/2007, with respect to the rejection(s) of claim(s) 16-36 under 102(b) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of new prior art discovered in an updated search.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 24-25 and 27-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Yoshinori et al (U.S. Patent No. 6,179,706 B1).

Yoshinori et al teaches a vehicle seat including a seat part and a backrest, at least one of the seat part and the backrest comprising a usable surface, an air supply opening, an air duct configured to direct air between the air supply opening and the

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usable surface; and wherein the air duct has a first cross-sectional area at a first position and a second cross-sectional area at a second position, the first position being closer to the air supply opening than the second position and the second cross-sectional area being less than the first cross-sectional area [See Fig. 3 where the cross section of the air duct(s) varies in portions of the air duct(s)], wherein the air duct comprises a plurality of arms so that the air duct is distributed over substantially all of the usable surface, further comprising a foam material having a first side in which at least a portion of the air duct is formed and a second side opposite the first side, further comprising compensation elements 14 coupled to the second side of the foam material, the compensation elements configured to deform so that the cross-sectional area of the at least a portion of the air duct is maintained when the vehicle seat is occupied, further comprising a ventilator for producing an air flow in the air duct, further comprising an operating unit for controlling the operation of the ventilator.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 31-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshinori et al (U.S. Patent No. 6,179,706 B1) in view of Ganz et al (U.S. Patent No. 6,439,658 B1).

Yoshinori et al teach the structure substantially as claimed but does not teach that , wherein the operating unit is configured to control the operation of the ventilator based on at least one of the temperature of the interior of the vehicle and the temperature of the vehicle seat, wherein the operating unit is configured to operate the ventilator at a first speed when at least one of the temperature of the interior of the vehicle and the temperature of the vehicle seat exceeds a predetermined temperature limit and at a second speed when at least one of the temperature of the interior of the vehicle and the temperature of the vehicle seat falls within a predetermined temperature range, wherein the second speed is less than the first speed, wherein the predetermined temperature range within which the ventilator operates at the second speed is less than the predetermined temperature limit over which the ventilator operates at the first speed, wherein the second speed is selected from a range of speeds, wherein the ventilator is coupled to a side of the at least one of the seat part and the backrest. However, Ganz et al teaches such an operating unit (See column 3, lines 4-14). It would have been obvious and well within the level of ordinary skill in the art to modify the seat, as taught by Yoshinori et al, to include an operating unit, as taught by Ganz et al, since such an operating unit would provide automatic temperature and comfort adjustment of the seat when in use.

Claims 36 and 39-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshinori et al (U.S. Patent No. 6,179,706 B1) in view of Lee (U.S. Patent No. 6,106,057).

Yoshinori et al teaches the structure substantially as claimed of a vehicle seat including a seat part having a lateral side and a backrest having a lateral side, at least one of the seat part and the backrest comprising: a usable surface; an air supply opening; an air duct extending between the air supply opening and the usable surface, the air duct having at least two air duct arms; a ventilator in communication with the air duct for producing an air flow in the air duct; wherein the backrest comprises a backrest structure and a backrest upholstery for covering the backrest structure and wherein the ventilator is coupled to the lateral side of one of the backrest structure and the backrest upholstery, wherein the seat part includes a seat part structure and a seat part upholstery for covering the seat part structure but does not teach that the ventilator is supported at the lateral side of the at least one of the seat part and the backrest. However, Lee teaches a ventilator is supported at the lateral side of the at least one of the seat part and the backrest to be old. It would have been obvious and well within the level of ordinary skill in the art to modify the seat, as taught by Yoshinori et al, to include a ventilator supported at the lateral side of the at least one of the seat part and the backrest, as taught by Lee, since a ventilator attached to a side of a vehicle seat noting more than alternative convention method of attaching the ventilator to the seat.

Claims 37-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ganz et al (U.S. Patent No. 6,439,658 B1).

Ganz et al teaches an obvious use of the structures as claimed (See column 3, lines 4-14).

Claim 26 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 16-23 are allowed.

The following is an examiner's statement of reasons for allowance: Prior art fails to teach a usable surface having a first part on the backrest and a second part on the seat part, the first part being connected to the second part by a flexible connecting element; wherein the flexible connecting element makes up part of the air duct and is directly adjoined by the distributing section of the air duct, as defined in claim 16.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney B. White whose telephone number is (571) 272-6863. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on (571) 272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Rodney B. White/
Primary Examiner
Art Unit 3636
March 17, 2008